

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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United States of America,	)	
	)	No. 15-8378MJ
Plaintiff,	)	
	)	
vs.	)	Phoenix, Arizona
	)	August 26, 2015
Ahmed Mohammed El Gammal,	)	
	)	
Defendant.	)	
	)	

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BEFORE: THE HONORABLE JOHN Z. BOYLE, MAGISTRATE JUDGE

TRANSCRIPT OF PROCEEDINGS

COUNSEL/IDENTITY/DETENTION/PRELIMINARY HEARING

**APPEARANCES:**

For the Plaintiff:

U.S. Attorney's Office

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For the Defendant:

Mitchell Stein & Carey

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1 THE CLERK: Magistrate docket 15-8378, United States  
2 of America versus Ahmed Mohammed El Gammal, on for status  
3 hearing regarding counsel, identity, detention, and preliminary  
4 hearing.

5 MS. SCHEEL: Good afternoon, Your Honor, Ann Scheel on  
6 behalf of the United States.

7 THE COURT: Good afternoon.

8 MR. MORRISSEY: Good afternoon, Your Honor, Mike  
9 Morrissey on behalf of Mr. El Gammal, who is present.

10 Perhaps we should take up the counsel issue first?

11 THE COURT: Please.

12 Good afternoon, sir, Mr. El Gammal.

13 MS. ALVARADO: And, Your Honor, Jeanette Alvarado. I  
14 was temporarily appointed.

15 THE COURT: Yes.

16 MS. ALVARADO: Yes.

17 THE COURT: Good afternoon. Thank you for coming.

18 I see the appearance of counsel form.

19 Mr. Morrissey, am I correct that your firm has been  
20 hired to represent Mr. El Gammal?

21 MR. MORRISSEY: Yes.

22 THE COURT: All right. With that, Miss Alvarado,  
23 you're released. Thank you very much.

24 MS. ALVARADO: Thank you.

25 THE COURT: All right. We have the issue of -- we're

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1 here for status hearing on identity, detention, and preliminary  
2 hearing. Mr. Morrissey, what's --

3 Well, let me ask the Government, is the Government  
4 seeking detention in this matter?

5 MS. SCHEEL: Yes, Your Honor.

6 THE COURT: Okay. With that, how do you wish to  
7 proceed?

8 MR. MORRISSEY: Your Honor, we'd like to schedule a  
9 detention hearing and a preliminary hearing.

10 We will address identity by admitting that  
11 Mr. El Gammal is the individual identified in the Complaint.

12 THE COURT: All right. So my understanding is that  
13 we'll reset this for a preliminary and detention hearing on  
14 August 28th at 1:30 back in this court.

15 Any objection by either party?

16 MS. SCHEEL: That's Friday, Your Honor?

17 MR. MORRISSEY: We're just trying to figure out if  
18 that's Friday. Is that Friday?

19 No objection.

20 MS. SCHEEL: At what time? I'm sorry.

21 THE COURT: 1:30.

22 MS. SCHEEL: 1:30? That should be fine.

23 THE COURT: All right. So, sir, what we're doing is  
24 we're establishing that your two hearings will be set for this  
25 Friday at 1:30 back in this courtroom.

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1           You also have the right to an identity hearing. That  
2           would require the Government to establish proof that you're the  
3           individual named in the Complaint. Your attorney's advised  
4           you're willing to give up that identity hearing.

5           Do you understand that?

6           THE DEFENDANT: Yes.

7           THE COURT: Do you agree to give up your right to that  
8           hearing?

9           THE DEFENDANT: Yes, I do.

10          THE COURT: All right. The Court accepts your waiver  
11          of your identity hearing. We'll note for the record that your  
12          identity is established for the purposes of the rule.

13          We have set your other two matters.

14          And with that is there anything else from either  
15          counsel?

16          MS. SCHEEL: No, Your Honor.

17          MR. MORRISSEY: No, Your Honor.

18          THE COURT: All right. So, sir, what that means then  
19          is you'll remain in custody, but we're resetting this --

20          MS. SCHEEL: There was one. Your Honor, this  
21          Complaint was sealed initially. I've been informed by the  
22          Southern District of New York that an order was issued today  
23          unsealing it. So this matter is not sealed.

24          THE COURT: All right. Well, it's already unsealed?

25          MS. SCHEEL: It is -- there has been an order

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1 unsealing the matter.

2 THE COURT: Okay. So the matter is unsealed.

3 Let me advise both counsel as well that -- I need to  
4 advise you of one more thing. This is for either party, the  
5 Statute 3145 permits a review by the court of original  
6 jurisdiction, that would be the court in New York, to hear any  
7 appeal of any determination, either way. So this applies to  
8 both.

9 Normally during the middle of the week this is easier  
10 because you have some time, you have a few days to go forward  
11 and petition that court. Normally any magistrate judge here or  
12 district court judge here would -- if that court reviewed it  
13 and was not the original court, would give you a stay of some  
14 time.

15 So just be aware that if -- you should just keep that  
16 in mind, because the stay's not going to be -- if one party  
17 seeks to seek original jurisdiction review in the District of  
18 New York, that -- any order out of this Court would be pretty  
19 quick, which is to say I would not give either party a week. I  
20 would give you a day or two. Because you already have advance  
21 notice of what's going to happen here, and you can take that  
22 into account.

23 Miss Scheel?

24 MS. SCHEEL: That's all right. I guess, in speaking  
25 with the assistants in the Southern District of New York, it

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1 would be their intention to appeal to the District Court in  
2 New York, should this Court order the defendant's release.

3 So it's the Court's position that you might give them  
4 until Monday or Tuesday -- a stay until Monday or Tuesday if  
5 that is ordered on Friday?

6 THE COURT: Yeah. I would grant a stay. And I would  
7 grant a stay for the defense as well.

8 MS. SCHEEL: Okay.

9 THE COURT: So -- although it would be really less of  
10 an issue. But, yeah, I'm just giving you notice up front that  
11 a party that came in and wanted a week, given the fact that  
12 we've had all this time ahead, and you're remaining in custody  
13 while this case proceeds, I give that very serious  
14 consideration.

15 So, yes, you read the Court correctly.

16 MS. SCHEEL: That's fine. I will let them know there.

17 THE COURT: All right. Anything else?

18 Talk to your attorney first.

19 MR. MORRISSEY: Your Honor, if we could have just a  
20 moment for me to have Mr. El Gammal formally sign the waiver  
21 before he's taken.

22 THE COURT: That's fine. And for our record, sir, how  
23 do you wish us to pronounce your last name?

24 THE DEFENDANT: El Gammal.

25 THE COURT: El Gammal. Thank you very much.

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1           Yeah, we will wait.

2           (Discussion held off the record.)

3           MR. MORRISSEY: Thank you, Your Honor.

4           THE COURT: All right. Thank you all. This hearing  
5 is adjourned.

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C E R T I F I C A T E

I, CANDY L. POTTER, court-approved transcriber,  
certify that the foregoing is a correct transcript from the  
official electronic sound recording of the proceedings in the  
above-entitled matter.

DATED at Phoenix, Arizona, this 18th day of  
September, 2015.

s/Candy L. Potter  
Candy L. Potter